

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

**BEVAN XAVIER BROOKS, Sr.** ]  
**a/k/a** ]  
**BEVAN XAVIER BROOKS** ]

**CIVIL ACTION 2:10-2010-MJP**

**Plaintiff,** ]

**ORDER**

**-vs-**

**CHIEF HORACE JAMES, OFC.** ]  
**CLYDE JOHNSON, NURSE WEBBER,** ]  
**DEPUTY DIRECTOR MRS. DOZIER,** ]  
**SGT. MATHIS., OFC. A. BROWN,** ]  
**DIRECTOR WILLIE BAMBERG, DR.** ]  
**SWEATMAN, CPT. CHARLES** ]  
**GOVAN, CPL. MURPHY, SGT.** ]  
**WOODS, OFC. PAUL, OFC** ]  
**CHIOSOLM, OFC. RYAN, AND** ]  
**SGT. FRISK,** ]  
**Defendants.**

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**In the underlying action, commenced pursuant to 42 U.S.C. § 1983, the plaintiff Bevan Xavier Brooks, proceeding *pro se*, contends that his constitutional rights have been violated. He claims *inter alia* that his due process rights have been violated in various disciplinary actions and he also claims deliberate indifference in connection a “serious allergic reaction”**

to being required to eat nutraloaf for three meals a day for 21 days. The plaintiff seeks monetary damages and as well as equitable relief. The defendants deny the plaintiff's allegations and move for summary judgment.

Pursuant to 28 U.S.C. §636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina this matter was referred to United States Magistrate Bruce Hendricks for a Report and Recommendation. In the Report, the Magistrate Judge recommends granting summary judgment to the defendants. The plaintiff has not objected to the Magistrate Judge's recommendation.

The applicable standard of review for this Court is clear. The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. Mathews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which a specific objection is made 28 U.S.C. §636(b)(1). However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the Magistrate Judge as to those portions of the Recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, the Court is free, after review, to accept, reject or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. Wood v. Schweiker, 537 F. Supp. 660, 661 (D.S.C. 1982). The Court has carefully reviewed the record before it and has determined that the Report and Recommendation of the Magistrate Judge should be accepted. The plaintiff was advised of the

necessity to file objections to the Report and Recommendation and the plaintiff has failed to respond. The plaintiff is proceeding *pro se* and is responsible for his actions. Accordingly, for the reasons set forth in the Report and Recommendation of the Magistrate Judge, the motion for summary judgment of the defendants is Granted. Also pending before the Court are plaintiff's motion to amend his complaint and plaintiff's motion for a preliminary injunction.

Upon consideration plaintiff's motion to amend is Granted and plaintiff's motion for an injunction is Denied.

**IT IS SO ORDERED.**

s/Matthew J. Perry, Jr.  
**SENIOR UNITED STATES DISTRICT JUDGE**

**Columbia, South Carolina  
April 28, 2011.**